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EXAMINER

EPSHTEYN, ALEXANDER

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/611,933	Applicant(s) ABRAHAM-FUCHS ET AL.	
	Examiner Alex Epshteyn	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All. b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

The objections to claims 2, 4, 8, 19, 22, 30, 32 & 34 in the office action of 12/12/05 are withdrawn.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 9, 11-13, 17, 18, 29, 30, 37 & 39 are rejected under 35

U.S.C. 102(b) as being anticipated by Joao (U.S. Patent Number 5,961,332).

Referring to claim 1, Joao discloses providing a capability profile for a patient (Fig. 2 – 203A, column 3 lines 47-56 & databank 8), a first database containing a plurality of skills and an allocation of minimum prerequisites for capabilities required for a respective skill (Fig. 3 - Block 308), and a second database, said second database containing a plurality of skills with expert rules relating to the selection of at least one of exercises and capabilities to be treated (Fig. 2 – 203B and 203C), and containing at least one of an associated order and weighting for the at least one of exercises and capabilities (column 3 lines 9 & 10: performing various calculations), for the purpose of acquiring respective skills taking into account existing capabilities and capability deficits; automatically evaluating, at a data processing station, the patient's capability profile for at least one patient skill which is to be treated by reverting to the first database to

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ascertain the existing capabilities and capability deficits (column 30 lines 43-61); selecting, by reverting to the second database and taking into account the expert rules, at least one exercise and capability to be treated (column 33 line 36-column 34 line 25: based on severity-score & abstract: diagnosis, and 35: 16-30); and outputting the at least one selected exercise and capability to be treated, with associated information about at least one of the weighting and order for carrying out training (column 39 line 49-column 41 line 13: Individualized Treatment Plan (ITP)).

Referring to claim 2, Joao discloses wherein a skills profile for the patient is provided (Fig. 2 – 203A), from which the data processing station (CPU 1) automatically ascertains skills, which are to be treated (column 33 line 36 - column 34 line 25: based on severity-score).

Referring to claim 9, Joao discloses wherein the expert rules in the second database, relating to at least one of the selection of exercises and capabilities to be treated and also their at least one of order and weighting, are designed for the fastest possible acquisition of the respective skills (column 7 lines 29-34).

Referring to claim 11, Joao discloses wherein, in the course of therapy, a current capability profile for the patient is repeatedly provided for the purpose of automatically generating proposals for modifying the training program by reverting to the expert rules in the second database again when individual capabilities change (column 41 lines 47-57).

Referring to claim 12, Joao discloses a data processing station (Fig. 2: central processing unit 204), coupled to a first database containing a plurality of capabilities and

an allocation of minimum prerequisites for capabilities required for the respective skill (Fig. 3 - Block 308), and coupled to a second database containing a plurality of skills with expert rules relating to the selection of at least one of exercises and capabilities to be treated (Fig. 2 – 203B) and also at least one of their order and weighting for the purpose of acquiring the respective skills taking into account existing capabilities and capability deficits (column 3 lines 9 & 10: performing various calculations); and a module for automatically evaluating a capability profile for a patient by reverting to the first database to ascertain the capabilities and capability deficits existing for a skill to be treated (column 30 lines 43-61) and for selecting (column 33 line 36-column 34 line 25: based on severity-score & abstract: diagnosis) and outputting (column 39 line 49-column 41 line 13: Individualized Treatment Plan (ITP)) at least one of exercises and capabilities to be treated with information about the at least one of weighting and order for carrying out training by reverting to the second database and taking into account the expert rules.

Referring to claim 13, Joao discloses wherein the module is designed for automatically ascertaining the patient's skills to be treated on the basis of a skills profile (Fig. 2 – 203A) for the patient (column 33 line 36 - column 34 line 25: based on severity-score).

Referring to claim 17, Joao discloses wherein the module is designed for repeatedly retrieving the patient's capability profile in the course of therapy for the purpose of automatically generating proposals for modifying the training program by reverting to the expert rules in the second database again when individual capabilities change (column 3 lines 47-56).

Referring to claim 18, Joao discloses wherein the expert rules in the second database are designed for the fastest possible acquisition of the respective skills (column 7 lines 29-34).

Referring to claim 29, Joao discloses a method for supporting therapy planning when creating a training program, wherein a capability profile for a patient (Fig. 2 – 203A, column 3 lines 47-56 & databank 8), a first database (Fig. 3 – Block 308), and a second database (Fig. 2 – 203B), said second database containing; evaluating a patient's capability profile for at least one treatable patient skill based upon information in a first database, including a plurality of skills and an allocation of minimum prerequisites for capabilities required for a respective skill; to ascertain the existing capabilities and capability deficits (column 30 lines 43-61); selecting at least one exercise and capability to be treated based upon information in a second database, the second database including a plurality of skills with expert rules relating to the selection of at least one of exercises and capabilities to be treated and including at least one of an associated order and weighting for the at least one of exercises and capabilities for the purpose of acquiring respective skills, taking into account existing capabilities and capability deficits, wherein the selecting takes into account the expert rules (column 33 line 36-column 34 line 25: based on severity-score & abstract : diagnosis); and outputting the at least one selected exercise and capability to be treated, with associated information about at least one of the weighting and order for carrying out training (column 39 line 49-column 41 line 13: Individualized Treatment Plan (ITP)).

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Referring to claim 30, Joao discloses wherein a skills profile (Fig. 2 – 203A) for the patient is provided, from which skills that are to be treated are ascertainable (column 33 line 36 – column 34 line 25: based on severity-score).

Referring to claim 37, Joao discloses wherein the expert rules in the second database, relating to at least one of the selection of exercises and capabilities to be treated and also their at least one of order and weighting, are designed for the fastest possible acquisition of the respective skills (column 7 lines 29-34).

Referring to claim 39, Joao discloses wherein, in the course of therapy, a current capability profile for the patient is repeatedly provided for the purpose of automatically generating proposals for modifying the training program by reverting to the expert rules in the second database again when individual capabilities change (column 41 lines 47-57).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 14 & 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Joao in view of L'Allier et al. (U.S. Patent Number 6,606,480). Referring to claim 3, Joao discloses the method as claimed in claim 2. *Joao does not disclose wherein at least one of the patient's capability and skills profile is retrieved from at least*

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one of a third and a fourth database. However, L'Allier et al. teaches wherein at least one of the patient's capability and skills profile (the examiner view this element as a set of skills possessed by a user) is retrieved from at least one of a third and a fourth database (Fig. 1B – skills database 200). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include wherein at least one of the patient's capability and skills profile is retrieved from at least one of a third and a fourth database, as disclosed in L'Allier et al., incorporated into Joao so that each requirement/element for developing a training program is separate.

Referring to claim 14, Joao discloses the system as claimed in claim 13. Joao does not disclose wherein the data processing station is coupled to at least one of a third and a fourth database, from which the at least one capability and skills profile is retrievable.

However, L'Allier et al. teaches wherein the data processing station (Fig. 1B: system 10) is coupled to at least one of a third and a fourth database (Fig. 1B – skills database 200), from which the at least one capability and skills profile is retrievable (the examiner view this element as a set of skills possessed by a user). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include wherein the data processing station is coupled to at least one of a third and a fourth database, from which the at least one capability and skills profile is retrievable, as disclosed in L'Allier et al., incorporated into Joao so that each requirement/element for developing a training program is separate.

Referring to claim 31, Joao discloses the system as claimed in claim 30. Joao does not disclose wherein at least one of the patient's capability and skills profile is retrieved from

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at least one of a third and a fourth database. However, L'Allier et al. teaches wherein at least one of the patient's capability and skills profile (the examiner view this element as a set of skills possessed by a user) is retrieved from at least one of a third and a fourth database (Fig. 1B – skills database 200). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include wherein at least one of the patient's capability and skills profile is retrieved from at least one of a third and a fourth database, as disclosed in L'Allier et al., incorporated into Joao so that each requirement/element for developing a training program is separate.

Claims 4, 5, 10, 32, 33 & 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Joao in view of Greenberg (WO 02/41231 A2). Referring to claim 4, Joao discloses the method in claim 1. *Joao does not disclose wherein at least one associated target capability is automatically output by the data processing station for each exercise that is output.* However, Greenberg teaches wherein at least one associated target capability (paragraph 0037: the appropriate medication dosage) is automatically output by the data processing station for each exercise (paragraph 0037: responsive to the selection of a drug) that is output. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include automatically outputting, as disclosed in Greenberg, incorporated into Joao so that the correct amount of medication is given to the patient. Therefore, the patient will not receive too much medication.

Referring to claim 5, as Greenberg teaches wherein the at least one associated target capability (paragraph 0037: the appropriate medication dosage) is retrieved from

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another database (medication database/treatment database 30), containing a plurality of exercises (the examiner views this element as the different amount of dosages that can be given) and an allocation of target capabilities which are trained when performing the respective exercise (the examiner views this elements as giving the patient the correct amount of medication); the combination above contains this structure.

Referring to claim 10, Joao discloses the method as claimed in claim 1. *Joao does not disclose wherein the data processing station automatically outputs, for all at least one of exercises and capabilities to be treated, at least one of an associated organization unit and organization category which is responsible for at least one of carrying out the exercise and treating the capability.* However, Greenberg teaches wherein the data processing station automatically outputs, for all at least one of exercises and capabilities to be treated, at least one of an associated organization unit and organization category which is responsible for at least one of carrying out the exercise and treating the capability (paragraph 0031: "best" treatment). The selected treatment is inherently included in a certain organization of the treating facility. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include at least one of an associated organization unit and organization category which is responsible for at least one of carrying out the exercise and treating the capability, as disclosed in Greenberg; incorporated into Joao in order to have the most effective drug used for treatment purposes.

Referring to claim 32, Joao discloses the method as claimed in claim 29. *Joao does not disclose wherein at least one associated target capability is output for each exercise*

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that is output. However, Greenberg teaches wherein at least one associated target capability (paragraph 0037: the appropriate medication dosage) is output for each exercise (paragraph 0037: responsive to the selection of a drug) that is output. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include outputting, as disclosed in Greenberg, incorporated into Joao so that the correct amount of medication is given to the patient. Therefore, the patient will not receive too much medication.

Referring to claim 33, as Greenberg teaches wherein the at least one associated target capability (paragraph 0037: the appropriate medication dosage) is retrieved from another database (medication database/treatment database 30), containing a plurality of exercises (the examiner views this element as the different amount of dosages that can be given) and an allocation of target capabilities which are trained when performing the respective exercise (the examiner views this elements as giving the patient the correct amount of medication); the combination above contains this structure.

Referring to claim 38, Joao discloses the method as claimed in claim 29. *Joao does not* wherein, for all at least one of exercises and capabilities to be treated, at least one of an associated organization unit and organization category is output, which is responsible for at least one of carrying out the exercise and treating the capability. However, Greenberg teaches wherein, for all at least one of exercises and capabilities to be treated, at least one of an associated organization unit and organization category is output, which is responsible for at least one of carrying out the exercise and treating the capability. (Paragraph 0031: "best" treatment). It would have been obvious to one of

ordinary skill in the art at the time the invention was made to include at least one of an associated organization unit and organization category which is responsible for at least one of carrying out the exercise and treating the capability, as disclosed in Greenberg, incorporated into Joao in order to have the most effective drug used for treatment purposes.

Claims 6 & 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Joao/Greenberg and further in view of L'Allier et al. (U.S. Patent Number 6,606,480). Referring to claim 6, Joao/Greenberg discloses the method as claimed in claim 5. *Joao/Greenberg does not disclose wherein a further database is provided which contains a plurality of skills and a prioritization of the skills.* However, L'Allier et al. teaches wherein a further database is provided which contains a plurality of skills (Fig. 1B: skills database 200) and a prioritization of the skills (based to the gap analysis). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a skills database, as disclosed in L'Allier et al., incorporated into Joao/Greenberg in order for an individual to gain proficiency (column 5 lines 11 & 12).

Referring to claim 34, Joao/Greenberg discloses the method as claimed in claim 33. Joao/Greenberg does not disclose wherein a further is provided which contains a plurality of skills and a prioritization of the skills. However, L'Allier teaches wherein a further database is provided which contains a plurality of skills (Fig. 1B: skills database 200) and a prioritization of the skills (based on gap analysis). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a

skills database, as disclosed in L'Allier et al., incorporated into Joao/Greenberg in order for an individual to gain proficiency (column 5 lines 11 & 12).

Claims 7, 23 & 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Joao/Greenberg/L'Allier et al. and further in view of Lumsden et al. (U.S. Publication Number 2003/0191777). Referring to claim 7, Joao/Greenberg/L'Allier et al. discloses the method as claimed in claim 6. *Joao/Greenberg/L'Allier et al. does not disclose wherein the prioritization of the skills in the further database is alterable by a user.* However, Lumsden et al. teaches wherein the prioritization of the skills in the further database is alterable by a user (paragraphs 0075 & 0076). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a skills database, as disclosed in Lumsden et al., incorporated into Joao/Greenberg/L'Allier et al. in order to be arranged according to a user's preference (paragraph 0075).

Referring to claim 23, Joao/Greenberg/L'Allier et al. discloses the method as claimed in claim 22. *Joao/Greenberg/L'Allier et al. does not disclose wherein the prioritization of the skills in the sixth database is alterable by a user.* However, Lumsden et al. teaches wherein the prioritization of the skills in the sixth database is alterable by a user (paragraphs 0075 & 0076). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a skills database, as disclosed in Lumsden et al., incorporated into Joao/Greenberg/L'Allier et al. in order to be arranged according to a user's preference (paragraph 0075).

Referring to claim 35, Joao/Greenberg/L'Allier et al. discloses the method as claimed in claim 34. *Joao/Greenberg/L'Allier et al. does not disclose wherein the prioritization of the skills in the further database is alterable by a user.* However, Lumsden et al. teaches wherein the prioritization of the skills in the further database is alterable by a user (paragraphs 0075 & 0076). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a skills database, as disclosed in Lumsden et al., incorporated into Joao/Greenberg/L'Allier et al. in order to be arranged according to a user's preference (paragraph 0075).

Claims 8, 21, 24 & 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Joao/Greenberg in view of L'Allier et al. and further in view of Lumsden et al. Referring to claim 8, Joao/Greenberg discloses the method as claimed in claim 6. *Joao/Greenberg does not disclose wherein the data processing station reverts to the further database for the purpose of automatically selecting exercises, usable to treat capabilities in need of treatment, which belong to, that skill to be treated which has the highest prioritization.* L'Allier et al. teaches wherein the data processing station reverts to the further database for the purpose of automatically selecting exercises (summary: training regiment), usable to treat capabilities in need of treatment (summary: column 3 lines 22-30). *L'Allier et al. does not teach wherein that skill to be treated which has the highest prioritization.* However, Lumsden et al. teaches wherein that skill to be treated which has the highest prioritization (Figs. 9 & 10). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the module is designed for automatically selecting exercises by reverting to

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another database and wherein that skill to be treated which has the highest prioritization, as disclosed in L'Allier et al. and Lumsden et al. respectively, incorporated into Joao/Greenberg so the best treatment will be issued to the patient and so that the skill that needs the most attention is dealt with first.

Referring to claim 21, L'Allier et al teaches wherein the data processing station reverts to the further database for the purpose of automatically selecting exercises (summary: training regiment), usable to treat capabilities in need of treatment (summary: column 3 lines 22-30). *L'Allier et al. does not teach wherein the skill to be treated which has the highest prioritization.* However, Lumsden et al. teaches wherein the skill to be treated which has the highest prioritization (Fig. 9); the combination of claim 7 contains this structure.

Referring to claim 24, L'Allier et al teaches wherein the data processing station reverts to the further database for the purpose of automatically selecting exercises (summary: training regiment), usable to treat capabilities in need of treatment (summary: column 3 lines 22-30). *L'Allier et al. does not teach wherein the skill to be treated which has the highest prioritization.* However, Lumsden et al. teaches wherein the skill to be treated which has the highest prioritization (Fig. 9); the combination of claim 23 contains this structure.

Referring to claim 36, L'Allier et al. teaches wherein the further database is accessed for the purpose of selecting exercises (summary: training regiment), usable to treat capabilities in need of treatment (summary: column 3 lines 22-30). *L'Allier et al. does not teach wherein the skill to be treated which has the highest prioritization.* However,

Lumsden et al. teaches wherein the skill to be treated which has the highest prioritization (Fig. 9); the combination of claim 34 contains this structure.

Claims 15, 16 & 25-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Joao in view of L'Allier et al. and further in view of Lumsden et al. Referring to claims 15 & 16, Joao discloses the system as claimed in claim 12. *Joao does not disclose wherein the data processing station is coupled to a another database containing a plurality of skills and a prioritization for the skills, and wherein the module is designed for automatically selecting exercises by reverting to the another database, the exercises being able to be used to treat capabilities in need of treatment which belong to that skill to be treated which has the highest prioritization and wherein the module allows the prioritization to be altered by the user.* L'Allier et al. teaches wherein the module is designed for automatically selecting exercises by reverting to another database (summary: training regiment), the exercises being able to be used to treat capabilities in need of treatment (summary: column 3 lines 22-30) and wherein the data processing station is coupled to another database containing a plurality of skills (Fig. 1B: skills database 200) and a prioritization for the skills (based to the gap analysis). *L'Allier et al. does not teach that skill to be treated which has the highest prioritization and wherein the module allows the prioritization to be altered by the user.* However, Lumsden et al. teaches that skill to be treated which has the highest prioritization (Fig. 9) and wherein the module allows the prioritization to be altered by the user (paragraphs 0075 & 0076). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the module is designed for

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automatically selecting exercises by reverting to another database and a skills database, as disclosed in L'Allier et al. and Lumsden et al. respectively, incorporated into Joao in order so that the skill that needs the most attention is dealt with first and so an individual can gain proficiency (column 5 lines 11 & 12).

Referring to claims 25 & 26, Joao discloses the system as claimed in claim 13. *Joao does not disclose wherein the data processing station is coupled to a another database containing a plurality of skills and a prioritization for the skills, and wherein the module is designed for automatically selecting exercises by reverting to the another database, the exercises being able to be used to treat capabilities in need of treatment which belong to that skill to be treated which has the highest prioritization and wherein the module allows the prioritization to be altered by the user.* L'Allier et al. teaches wherein the module is designed for automatically selecting exercises by reverting to another database (summary: training regiment), the exercises being able to be used to treat capabilities in need of treatment (summary: column 3 lines 22-30) and wherein the data processing station is coupled to another database containing a plurality of skills (Fig. 1B: skills database 200) and a prioritization for the skills (based to the gap analysis). *L'Allier et al. does not teach that skill to be treated which has the highest prioritization and wherein the module allows the prioritization to be altered by the user.* However, Lumsden et al. teaches that skill to be treated which has the highest prioritization (Fig. 9) and wherein the module allows the prioritization to be altered by the user (paragraphs 0075 & 0076). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the module is designed for automatically selecting

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exercises by reverting to another database and a skills database, as disclosed in L'Allier et al. and Lumsden et al. respectively, incorporated into Joao in order so that the skill that needs the most attention is dealt with first and so an individual can gain proficiency (column 5 lines 11 & 12).

Referring to claims 27 & 28, Joao discloses the system according to claim 13. *Joao does not disclose the system according to claim 14, wherein the data processing station is coupled to a another database containing a plurality of skills and a prioritization for the skills, and wherein the module is designed for automatically selecting exercises by reverting to the another database, the exercises being able to be used to treat capabilities in need of treatment which belong to that skill to be treated which has the highest prioritization and wherein the module allows the prioritization to be altered by the user.* L'Allier et al. teaches the system as claimed in claim 14 (refer to claim 14 rejection above) and wherein the module is designed for automatically selecting exercises by reverting to another database (summary: training regiment), the exercises being able to be used to treat capabilities in need of treatment (summary: column 3 lines 22-30) and wherein the data processing station is coupled to another database containing a plurality of skills (Fig. 1B: skills database 200) and a prioritization for the skills (based to the gap analysis). *L'Allier et al. does not teach that skill to be treated which has the highest prioritization and wherein the module allows the prioritization to be altered by the user.* However, Lumsden et al. teaches wherein that skill to be treated which has the highest prioritization (Fig. 9) and wherein the module allows the prioritization to be altered by the user (paragraphs 0075 & 0076). It would have been

obvious to one of ordinary skill in the art at the time the invention was made to include the module is designed for automatically selecting exercises by reverting to another database and a skills database, as disclosed in L'Allier et al. and Lumsden et al. respectively, incorporated into Joao in order so that the skill that needs the most attention is dealt with first and so an individual can gain proficiency (column 5 lines 11 & 12).

Claims 19, 20 & 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Joao/L'Allier et al. and further in view of Greenberg. Referring to claim 19, Joao/L'Allier et al. discloses the method as claimed in claim 3. *Joao/L'Allier et al. does not disclose wherein at least one associated target capability is automatically output by the data processing station for each exercise which is output and wherein the at least one associated target capability is retrieved from a fifth database, containing a plurality of exercises and an allocation of target capabilities which are trained when performing the respective exercise. However, Greenberg teaches wherein at least one associated target capability (paragraph 0037: the appropriate medication dosage) is automatically output by the data processing station for each exercise (paragraph 0037: responsive to the selection of a drug) that is output and wherein the at least one associated target capability (paragraph 0037: the appropriate medication dosage) is retrieved from a fifth database, containing a plurality of exercises (the examiner views this element as the different amount of dosages that can be given) and an allocation of target capabilities which are trained when performing the respective exercise (the examiner views this elements as giving the patient the correct amount of medication). It*

would have been obvious to one of ordinary skill in the art at the time the invention was made to include automatically outputting, as disclosed in Greenberg, incorporated into Joao so that the correct amount of medication is given to the patient. Therefore, the patient will not receive too much medication.

Referring to claim 22, as L'Allier et al. teaches wherein a sixth is provided which contains a plurality of skills (Fig. 1B: skills database 200) and a prioritization of the skills (based to the gap analysis); the combination above contains this structure.

Response to Arguments

Applicant's arguments filed 3/10/06 have been fully considered but they are not persuasive.

With regards to the contention that the database of skills in Joao, L'Allier, or Greenberg neither suggests nor matches the database of skills in the present application, the Examiner disagrees. The behavioral and psychological skills of Joao fully meet the definition of "skills" provided on pages 2, paragraph [007] of the specification. In particular, in this section of the specification, "skill" is defined as "... a complex action but one which is self-contained and can be delimited with respect to other actions." The instant application continues by stating that the terms skill are in the context of the activities of daily living. As such a definition of "skill" is stated in the specification, the physiological skills of Joao fully meet the stated definition of "skill" since they physiological skills shown by Joao in figures 2 and 3 define skills that are self-contained actions that apply to daily living. The citing of examples such as eating, dressing, exc. are simply cited as examples and are not part of the definition of skill,

neither are these examples positively cited in the claim language. Thus, "skill" as defined in the specification by Applicant is fully anticipated by the database of Joao.

Regarding the contention that Joao does not suggest a second database for expert rules relating to the selection of a treatment option, the Examiner disagrees. A database containing treatment techniques and treatment programs meets the limitation of a second database for expert rules, where the treatment can be selected for use.

Regarding the contention that Joao does not teach of order for weighting the exercises, the Examiner disagrees. Joao teaches of a processor that calculates the associated psychological data and then recommending a treatment plan based on the result of the psychological evaluation. Thus, the database of treatment options is weighted based on the results of the psychological evaluation calculation (3: 5-21).

Regarding the contention that Joao does not meet the limitation of reverting to the first database for evaluating a capability profile, the Examiner disagrees. Joao teaches of comparing the patient profile to a set of defined skills as described above. This meets the claim limitations as currently written.

Regarding the contention that Joao does not disclose selecting a treatment plan and outputting the treatment plan, the Examiner disagrees. Joao clearly describes using the serenity scores to select a treatment plan (35: 15-29 and 3: 5-20). The output report of Joao also meets the claim limitations of outputting a treatment plan.

Regarding the contention that Joao does not teach of the fastest possible acquisition of the expert rules, the Examiner disagrees. It is described above how Joao teaches of attaining expert rules and treatment plans. There is no patentable difference

between the speed at which the acquisition of the rules is acquired in the application and in Joao.

Regarding the contention that Joao in view of L'Allier fails to disclose skills in the form of the application, the Examiner disagrees. For the same reasons as listed above in the response to the "skills" of Joao, L'Allier meets the definition of "skill" as proposed by the application since skills to perform jobs meet the "skill" as defined in the specification.

Regarding the contention that there is no reason or motivation to combine Joao with L'Allier, the Examiner disagrees. The Examiner recognizes that references cannot be arbitrarily combined and that there must be reason why one skilled in the art would be motivated to make the proposed combination of primary and secondary references. However, there is no requirement that a motivation to make a modification be expressly articulated. The test for combining references is what the combination of disclosures taken, as a whole would suggest to one of ordinary skill in the art. In re McLaughlin, 170 USPQ 209 (CCPA 1971). In the instant case, the teaching of L'Allier is simply used to teach of using multiple other databases to store the profile data. The teaching of L'Allier is simply used to teach of multiple databases to store profile data and this is the only portion of the invention used in the combination.

Regarding the contention that Greenberg does not teach of automatically outputting at least one associated target capability for each exercise, the Examiner disagrees. Greenberg teaches of outputting medication information for each treatment plan selected by the treatment plan. When combined with Joao, this teaches of a

system that outputs a treatment plan and an associated medication target associated with the treatment plan.

Regarding the contention that Greenberg does not disclose automatically outputting an associated organization unit and organization category that is responsible for carrying out the plan, the Examiner disagrees. Greenberg meets the claim limitations as currently recited by selecting of a treatment plan that inherently falls in an organization of the treating facility.

Regarding the contention that Joao is not combinable with Greenberg, the Examiner disagrees. Greenberg deals with creating treatment options for a patient, the same, as is the purpose of Joao. The aspect of patient care is irrelevant since the system of Greenberg could also deal with physiological care. As described above, the combination of Greenberg with Joao is used to teach of what would be suggested to one skilled in the art. The teachings of Greenberg are used to teach of other methods known in the art to develop treatment plans.

With regards to the contention that Joao as not combinable with Greenberg and L'Allier, as described above, the test for combinations in the instant case is based on what the reference suggests to one skilled in the art. Both Greenberg and L'Allier deal with attaining treatment plans and teach different embodiments of the treatment plans. The type of treatment plan is irrelevant since the references are based on attaining a treatment plan.

With regards to the contention that Lumsden is not combinable with Greenberg, Joao, and L'Allier, the Examiner disagrees. As discussed above a reference is views as

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to what it suggests to one skilled in the art. In the case of Lumsden, one skilled in the art would find that the prioritization of skills in a database is capable to be defined by a user. This is in line with other such systems well known in the art where defined skills to create a system are prioritized by a person to define the best possible system, or in the case of the above mentioned references, a treatment plan for a patient.

With regards to the contention that Lumsden is not combinable with Greenberg, Joao, and L'Allier, the Examiner disagrees. As discussed above a reference is views as to what it suggests to one skilled in the art. In the case of Lumsden, one skilled in the art would find that the prioritization of skills in a database is capable to be defined by a user and the treatment of the highest prioritized skill will be selected first. This is in line with other such systems well known in the art where defined skills to create a system are prioritized by a person to define the best possible system, or in the case of the above mentioned references, a treatment plan for a patient.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any


extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alex Epshteyn whose telephone number is 571-272-5561. The examiner can normally be reached on M-F 8 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bob Pezzuto can be reached on 571-272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AE


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Art Unit 3714